

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
SHANNA GARNER

(b) County of Residence of First Listed Plaintiff BUCKS
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
CRAIG THOR KIMMEL, KIMMEL & SILVERMAN, P.C.
30 EAST BUTLER PIKE, AMBLER, PA 19002
PHONE: (215) 540-8888 EXT. 116

DEFENDANTS
ADVANCED CALL CENTER TECHNOLOGIES, LLC

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

Citizen of This State	PTF	DEF	Citizen of Another State	PTF	DEF
<input type="checkbox"/> 1	<input type="checkbox"/>	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/>	<input type="checkbox"/> 2
			<input type="checkbox"/> 3	<input type="checkbox"/>	<input type="checkbox"/> 3

Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
				<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 840 Securities/Commodities/ Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
			LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
				FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions

V. ORIGIN (Place an "X" in One Box Only)
 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District 6 Multidistrict Litigation (specify)

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 15 U.S.C. § 1692 et seq.
	Brief description of cause: FAIR DEBT COLLECTION PRACTICES ACT

VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	DEMAND \$	CHECK YES only if demanded in complaint: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

VIII. RELATED CASE(S) IF ANY	(See instructions):	JUDGE	DOCKET NUMBER	JUN 10 2015
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DATE 06-10-15 SIGNATURE OF ATTORNEY OF RECORD S. T.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

15

3254

Address of Plaintiff: 27 Viking Lane, Levittown, PA 19054

Address of Defendant: 1235 Westlakes Drive, Suite 160, Berwyn, PA 19312

Place of Accident, Incident or Transaction: _____

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes No

Does this case involve multidistrict litigation possibilities?

Yes No

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Patent
6. Labor-Management Relations
7. Civil Rights
8. Habeas Corpus
9. Securities Act(s) Cases
10. Social Security Review Cases
11. All other Federal Question Cases

(Please specify) 15 U.S.C. § 1692 et seq.

B. *Diversity Jurisdiction Cases:*

1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify) _____
7. Products Liability
8. Products Liability — Asbestos
9. All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Thor Kimmel,

counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: 06-10-15

Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 06-10-15

Attorney-at-Law

57100

Attorney I.D.#

CIV. 609 (5/2012)

JUN 10 2015

GJP

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORM

SHANNA GARNER	:	CIVIL ACTION
v.	:	16 3254
ADVANCED CALL CENTER	:	NO.
TECHNOLOGIES, LLC	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()

(f) Standard Management – Cases that do not fall into any one of the other tracks. ()

06-10-15
Date
215-540-8888 x 116

Attorney-at-law
877-788-2864

Plaintiff, Shanna Garner
Attorney for
kimmel@creditlaw.com

Telephone

FAX Number

E-Mail Address

(Civ. 660) 10/02

JUN 10 2015

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GJP

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

SHANNA GARNER,)
Plaintiff) 15 3254
v.) Case No.:
ADVANCED CALL CENTER) COMPLAINT AND DEMAND FOR
TECHNOLOGIES, LLC,) JURY TRIAL
Defendant)

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COMPLAINT

SHANNA GARNER (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against ADVANCED CALL CENTER TECHNOLOGIES, LLC (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28

1 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising
2 under the laws of the United States.

3 3. Defendant has an office and conducts business in the Commonwealth
4 of Pennsylvania and as such, personal jurisdiction is established.

5 4. Venue is proper pursuant to 28 U.S.C. §§ 1331(b)(2).

6
7 **PARTIES**

8 5. Plaintiff is a natural person residing in Levittown, Pennsylvania
9 19054.

10 6. Plaintiff is a “person” with standing to bring this suit pursuant to 15
11 U.S.C. §1692k(a).

12 7. Defendant is a debt collection company with its principal place of
13 business located at: 1235 Westlakes Drive, Suite 160, Berwyn, Pennsylvania
14 19312.

15 8. Upon information and belief, Defendant is a corporation that provides
16 call center, collections and debt purchase services to companies in the United
17 States.

18 9. At all times material hereto, Defendant acted as a “debt collector”
19 within the meaning of 15 U.S.C. § 1692(a)(6), and repeatedly contacted Plaintiff in
20 its attempts to collect a “debt” as defined by 15 U.S.C. § 1692(a)(5) for another
21 person.

10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. Upon information and belief, at all pertinent times hereto, Defendant was hired to collect a consumer debt and contacted Plaintiff in an attempt to collect that debt.

12. Upon information and belief, Defendant collects, and attempts to collect, debts incurred, or alleged to have been incurred, for personal, family, or household purposes on behalf of creditors using the U.S. Mail, telephone and/or internet.

13. Upon information and belief, the alleged debt Defendant was seeking to collect arose out of transactions that were primarily for personal, family, or household purposes.

14. Beginning in September 2014, and continuing through October 2014, Defendant repeatedly contacted Plaintiff on her cellular telephone in its attempts to collect a debt of another person.

15. Plaintiff knew it was Defendant calling because she has spoken with its collectors and its number appeared on her caller id.

16. Defendant called Plaintiff, on average, once a day.

1 17. In those instances when the parties spoke, Defendant's collectors
2 claimed they were calling to collect a debt of a person, other than Plaintiff.

3 18. On at least one occasion, Plaintiff informed Defendant that it was
4 calling the wrong number and to stop calling her, as its calls were to her
5 inconvenient and wasteful of her cellular telephone minutes.
6

7 19. However, Defendant did not remove Plaintiff's cellular telephone
8 number from its database.
9

10 20. Rather, Defendant continued to call Plaintiff in its attempts to collect
11 a debt of a third person, despite knowing it was calling the wrong person.
12

13 21. When Defendant was told that it was calling the wrong number, there
14 was no purpose for additional calls to Plaintiff except to harass, annoy or abuse
15 Plaintiff.
16

17 22. Defendant failed to update its records and/or failed to investigate the
18 information provided by Plaintiff to avoid further harassment.
19

20 23. Most recently, Defendant called Plaintiff on: September 29, 2014, at
21 12:38 p.m. and 12:39 p.m.; September 30, 2014, at 12:35 p.m. and 5:22 p.m.;
22 October 1, 2014, at 3:22 p.m.; October 3, 2014, at 5:29 p.m.; October 4, 2014, at
23 8:59 a.m.; October 6, 2014, at 5:56 p.m.; October 7, 2014, at 8:16 p.m.; October 8,
24 2014, at 5:43 p.m.; October 9, 2014, at 10:29 am. And 5:23 p.m.; and October 10,
25 2014, at 12:35 p.m.

**DEFENDANT VIOLATED THE
FAIR DEBT COLLECTION PRACTICES ACT**

COUNT I

24. Defendant's conduct, detailed in the preceding paragraphs, violated
15 U.S.C. § 1692b(3).

- a. Section 1692b(3) of the FDCPA prohibits a debt collector from communicating with any person other than a consumer more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information.

b. Here, Defendant violated § 1692b(3) of the FDCPA by communicating with Plaintiff more than once about another person's debt, despite having been notified that it was calling the wrong person and that Plaintiff did not want to receive its collection calls.

COUNT II

25. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C. §§ 1692d and 1692d(5).

a. Section 1692d of the FDCPA prohibits debt collectors from engaging in any conduct the natural consequence of which is to

1 harass, oppress, or abuse any person in connection with the
2 collection of a debt.

3 b. Section 1692d(5) of the FDCPA prohibits debt collectors from
4 causing a telephone to ring or engaging any person in telephone
5 conversation repeatedly or continuously with intent to annoy,
6 abuse, or harass any person at the called number.
7
8 c. Here, Defendant violated §§ 1692d and 1692d(5) of the
9 FDCPA when it called Plaintiff, on average, once a day to
10 collect the debt of another person, as well as continuing to call
11 Plaintiff after it was informed that it was calling the wrong
12 person.
13

14 **COUNT III**
15

16 26. Defendant's conduct, detailed in the preceding paragraphs, violated 15
17 U.S.C. § 1692f.
18

19 a. Section 1692f of the FDCPA prohibits debt collectors from
20 using unfair or unconscionable means to collect or attempt to
21 collect any debt.
22
23 b. Here, Defendant violated § 1692f of the FDCPA by failing to
24 update its records to avoid the further harassment of Plaintiff
25 after having been told it was calling the wrong person, as well

1 as failing to remove Plaintiff's number from its call logs, as
2 evidenced by its continued calls to Plaintiff.

3 WHEREFORE, Plaintiff, SHANNA GARNER, respectfully prays for a
4 judgment as follows:

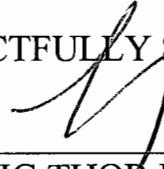
5 a. All actual damages suffered pursuant to 15 U.S.C. §
6 1692k(a)(1);
7
8 b. Statutory damages of \$1,000.00 for the violation of the FDCPA
9 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
10
11 c. All reasonable attorneys' fees, witness fees, court costs and
12 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.
13 § 1693k(a)(3); and
14
15 d. Any other relief deemed appropriate by this Honorable Court.

16 **DEMAND FOR JURY TRIAL**

17 PLEASE TAKE NOTICE that Plaintiff, SHANNA GARNER, demands a
18 jury trial in this case.
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2 Date: 06/10/15
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RESPECTFULLY SUBMITTED,

By: 

CRAIG THOR KIMMEL

Attorney ID No. 57100

Kimmel & Silverman, P.C.

30 E. Butler Pike

Ambler, PA 19002

Phone: (215) 540-8888

Fax: (877) 788-2864

Email: kimmel@creditlaw.com

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